

REMARKS

Favorable consideration of this patent application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 9 and 10 have been rejected as being anticipated by Winn under 35 USC 102; Claims 11, 16, 18, 20, and 21 have been rejected as being unpatentable over Winn in view of Price under 35 USC 103; Claims 12-14 and 17 have been rejected as being unpatentable over Winn in view of Price and Tee-garden et al. under 35 USC 103; and Claim 15 has been rejected as being unpatentable over Winn in view of Baker et al. under 35 USC 103; Claim 19 has been rejected as being unpatentable over Winn in view of Price and Baker et al. under 35 USC 103. Claims 9 and 16 have been cancelled, Claims 22 and 23 have been inserted, and consequently, Claims 10-15 and 17-23 are now active in this patent application.

It is reiterated to the Examiner that the present invention comprises a method wherein, for example, different cigarette cartons, having different height dimensions, initially have their height dimensions determined at a height determination station, and that the data derived as a result of such height determination procedures is then transmitted to a programmable logic controller (PLC) which in turn uses such data to automatically control the various mechanisms at the carton opening station, the tax stamp application station, and the carton closing station such that the mechanisms are disposed at the proper elevations so as to properly interact with the cigarette cartons. New Claims 22 and 23 now set forth the fact that the means for automatically adjusting the elevational disposition of the various mechanisms is not only in accordance with the data determined by the cigarette carton height determination means, but in addition, such means automatically adjusts the various mechanisms independently of the positional disposition of the height determination means. This is vastly different from the systems of Winn and Price, and it is therefore submitted that Claims 22 and 23, as well as the other dependent claims of this application, patentably define over all of the art of record.

For example, it is noted that while Winn discloses photocells 6 for determining the height of the cigarette cartons, and has a statement in the specification that the plow head 7 and the stamping heads 8 can be automatically adjusted, the patent is entirely silent as to any disclosure for actually achieving such automatic adjustment. Accordingly, it is respectfully submitted that such patent disclosure is inadequate and could not be used to anticipate or render obvious the claimed invention.

Still further, it is respectfully noted that contrary to the position taken by the examiner in characterizing the system of Price, Price does **NOT** in fact disclose height determination means for the cartons or boxes, but to the contrary, simply detects, in effect, the presence of the upper edge or upper limit of the carton or box. As can be appreciated from **FIGURE 4**, for example, of Price, when the two sensors 34,34 develop the same positive or negative signals, the sensors 34,34 are both either below or above the upper edge portion of the flaps F1. When the sensors 34,34 develop opposite signals, then this is indicative of the particular level

at which the flaps F1 are located. Accordingly, the elevational disposition of the sealing head 20 is controlled by the logic control 29, the valve 28, and the cylinder 26 in response to receiving the aforementioned opposite signals from the sensors 34,34. In particular, the logic control 29 causes the cylinder 26 to move the head 20 upwardly or downwardly until it receives the proper signals from the sensors 34,34. It is also noted that the head 20 and the sensors 34,34 are connected together by means of cable 38. Accordingly, as the head 20 is moved upwardly and downwardly, so are the sensors 34,34. In accordance with the method of the present invention, however, the mechanisms disposed at the carton opening station, the tax stamp application station, and the carton closing station are moved independently of the disposition of the height determination means and in accordance with actual height dimension data received from the cigarette carton height determination means, and this limitation is now recited within newly inserted Claims 22 and 23. It is therefore respectively submitted that Claims 22 and 23 patentably define over all of the prior art of record, it being noted that the references of Teegarden et al. and Baker et al. do not rectify the deficiencies noted in connection with Price.

More particularly, for example, while the examiner has noted that Teegarden et al. discloses height determination means, the system of Teegarden et al. is totally irrelevant as to using such information to control different components which are to be utilized to perform different operations upon cartons as is the case of the present invention, that is, the carton opening mechanisms, the tax stamp application mechanisms, and the carton closing mechanisms. In addition, there are no teachings whatever as to how the systems of Teegarden et al. would be implemented or incorporated into the systems of Winn and Price. For example, if somehow the system of Teegarden et al. was implemented or incorporated within the system of Price so as to allegedly meet the claimed recitations of the present invention, such modifications to Price would completely or totally change the system and disclosure of Price from its dependent or interrelated use defined between the head 20 and the sensors 34,34 to an independent system or method, as is characteristic of the present invention, and this is not permitted in accordance with present patent practice because such modifications to Price would not be obvious or be considered to within the teachings of Price.

In light of the foregoing, it is submitted that this patent application is now in condition for allowance, and an early and favorable action to this effect is now anticipated and awaited.

Respectfully Submitted,  
SCHWARTZ & WEINRIEB




---

Steven W. Weinrieb  
Attorney of Record  
Registration No. 26,520  
(703) 415-1250